

### **REMARKS/ARGUMENTS**

Claims 1 through 48 are pending in the present application. Claims 1, 9, 17, 25, 33, and 41 are the six (6) independent claims. Claims 2 through 8 depend from claim 1. Claims 10 through 16 depend from claim 9. Claims 18 through 24 depend from claim 17. Claims 26 through 32 depend from claim 25. Claims 34 through 40 depend from claim 33. Claims 42 through 48 depend from claim 41.

Applicant expresses appreciation that claims 9 through 16, 25 through 32, and 41 through 48 are allowed. Applicant notes receipt of the Reasons for Allowance in the pending Action. In response, applicant respectfully submits that claims 9 through 16, 25 through 32, and 41 through 48 of the instant application are allowable for the reasons set forth in the specification. Any statements set forth by the Office in the Reasons for Allowance, which differ from that previously stated by applicant in the specification and response filed with the U.S. Patent and Trademark Office form no basis for allowance and therefore provides no grounds for application of the Doctrine of Prosecution History Estoppel in the construction of the allowed claims.

In the Action, the Office objected to the abstract of the disclosure as being in an improper format. Applicant respectfully has amended the specification to be concise, proper and consistent with MPEP 608.01(b). Reconsideration and withdrawal of the objection are respectfully requested.

In the Action, the Office has indicated that the drawings are objected to because of "empty boxes in claim 1". It is applicant's contention that this is a typographical error contained in the Action and that the Examiner intended to refer to figure 1, not claim 1. A proposed corrected drawing for Fig. 1 is

submitted concurrently herewith. Applicant requests authorization from the Office to submit a final formal drawing corrected as indicated in corrected figure 1. Reconsideration of the objection is respectfully requested.

In the Action, claims 1 through 6, 17 through 22, 24, 33 through 38 and 40 were rejected under 35 U.S.C. § 102(e) as being anticipated by United States Patent No. 6,307,377 to Cummings, et al. (hereinafter "Cummings"). Applicant respectfully traverses the rejection of claim 1 on the grounds that Cummings does not disclose all of the elements of independent claim 1.

Claim 1 provides for a method of indicating extant battery life. The method has the steps of initially determining a first extant battery life value. The first extant battery life value has a first confidence level. The method has the step of generating a perceivable indication of the first battery life value and determining a second extant battery life value. The second extant battery life value has a second confidence level. The method further has the step of generating a perceivable indication of the second battery life value after generating the perceivable indication of the first battery life value. The second confidence level is higher than the first confidence level. The method further has the step that determination of the first extant battery life value is completed before the determination of the second extant battery life value is completed.

Cummings discloses a method of determining a capacity of a battery. The method has the steps of applying a first voltage to the battery during a first time interval and acquiring battery operational data during the first time interval. The method further has the step of applying a second voltage to the battery during a second time interval and acquiring the battery operational data during the second time interval. A value of a first battery characteristic and a second battery operational data is determined from the battery operational data during the first and the second time intervals.

Cummings discloses at column 6, lines 53 through 57 that the first measurement determines an internal resistance of the battery during a maximum value  $V_h$  of a square voltage waveform. Cummings further discloses that the second measurement determines the battery voltage during a minimum value  $V_l$  of the square wave waveform. See column 6, lines 57 through 60. Cummings provides for obtaining a combination of the internal resistance of the battery and the battery voltage.

Cummings does not disclose or suggest any step of determining a second extant battery life value having a second confidence level, let alone the step of generating a perceivable indication of the second battery life value after generating the perceivable indication of the first battery life value. Cummings further does not disclose or suggest that the second confidence level is higher than the first confidence level and the determination of the first extant battery life value is completed before the determination of said second extant battery life value is completed.

In contrast, Cummings discloses that the internal resistance of the battery and the measured voltage of the battery are delivered to a battery charge assessment device. The battery charge assessment device compares the internal resistance of the battery and the measured voltage of the battery to a table of data stored in a memory. The battery charge assessment device correlates the internal resistance of the battery and the measured voltage of the battery with a stored data from the table of data stored in the memory. See column 6, lines 9 through 34.

Applicant contends that the method of Cummings suffers from a lack of accuracy that the method of claim 1 is seeking to overcome. A discharge curve of the battery varies over time and is dependent upon such factors as a number of recharge cycles. The method of claim 1 takes into account this longstanding problem in the art. Reconsideration and withdrawal of the rejection of claim 1 are

respectfully requested. Claims 2 through 6 and 8 depend from claim 1.  
Reconsideration of the rejection of claims 2 through 6 and 8 are respectfully requested.

Independent claims 17 and 33 are patentable for reasons similar to those argued above for claim 1. Reconsideration and withdrawal of the rejection of claims 17 and 33 are respectfully requested. Claims 18 through 22, and 24 depend from claim 17 and claims 34 through 38 and 40 depend from claim 33. Reconsideration and withdrawal of the rejection of these claims are respectfully requested for at least the reason that these claims depend from allowable independent claims.

Thus, reconsideration and withdrawal of the rejection of claims 1 through 6, 8, 17 through 22, 24, 33 through 38 and 40 are respectfully requested. Applicant respectfully requests favorable consideration and that the application be passed to allowance.

Respectfully Submitted,

Date: \_\_\_\_\_

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Paul D. Greeley, Esq.

Reg. No. 31,019

Attorney for Applicant

Ohlandt, Greeley, Ruggiero & Perle, L.L.P.

One Landmark Square, 10<sup>th</sup> Floor

Stamford, CT 06901-2682

(203) 327-4500